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7                   UNITED STATES DISTRICT COURT  
8                   WESTERN DISTRICT OF WASHINGTON  
9                   AT SEATTLE

10                  MICHAEL BOONE,

CASE NO. C21-1562JLR

11                  Plaintiff,

ORDER

12                  v.

13                  JOHN ALLABEN,

14                  Defendant.

15                  Before the court is Defendant John Allaben's motion to certify questions to the  
16 Washington Supreme Court or, in the alternative, for reconsideration. (Mot. (Dkt. # 44).)  
17 In this order, the court addresses the portion of Mr. Allaben's motion in which he asks the  
18 court to reconsider its April 25, 2022 order granting Plaintiff Michael Boone's motion for  
19 reconsideration of the court's March 21, 2022 order granting Mr. Allaben's motion for  
20 summary judgment. (*Id.* at 8-10; *see* 4/25/22 Order (Dkt # 42); 3/21/22 Order (Dkt.  
21 # 36).)

1       “Motions for reconsideration are disfavored,” and the “court will ordinarily deny  
2 such motions in the absence of a showing of manifest error in the prior ruling or a  
3 showing of new facts or legal authority which could not have been brought to its attention  
4 earlier with reasonable diligence.” Local Rules W.D. Wash. LCR 7(h)(1). The court  
5 DENIES Mr. Allaben’s motion for reconsideration because he has met neither standard.  
6 To the extent Mr. Allaben seeks clarification, the court directs him to page 6 of the April  
7 25, 2022 order, in which the court stated its understanding that Mr. Boone bases his  
8 negligence claim on Mr. Allaben’s alleged breach of the duty of reasonable care that  
9 “every individual owes . . . to refrain from causing foreseeable harm in interactions with  
10 others.” (April 25, 2022 Order at 6 (quoting *Beltran-Serrano v. City of Tacoma*, 442 P.3d  
11 608, 613-14 (Wash. 2019).) In determining whether Mr. Allaben breached that duty on  
12 July 7, 2019, the jury will consider the circumstances under which Mr. Allaben pushed  
13 Mr. Boone and decide whether a reasonably prudent person would have done the same  
14 thing in Mr. Allaben’s position. *See* 16 Wash. Prac., Tort Law and Practice § 2:33 (5th  
15 ed.). Furthermore, Mr. Allaben’s concern that allowing Mr. Boone’s negligence claim to  
16 proceed will deprive him of a “defense of others” defense appears to be misplaced. The  
17 court has identified at least one Washington Court of Appeals decision that acknowledges  
18 a “defense of others” defense to negligence. *See, e.g., Jones v. Hapa United LLC*, 181  
19 Wash. App. 1028, at \*2 (June 10, 2014) (unpublished) (citing RCW 9A.16.020(3); and  
20 stating that “[d]efense of others would, therefore, negate negligence”).

21       Mr. Allaben also moves for an order certifying questions to the Washington  
22 Supreme Court. (*See* Mot. at 4-8.) Mr. Boone shall file his response to Mr. Allaben’s

1 arguments regarding certification by May 23, 2022. *See* Local Rules W.D. Wash. LCR  
2 7(d)(3). Because the court has denied Mr. Allaben's motion for reconsideration, Mr.  
3 Boone need not respond to the arguments regarding reconsideration. *See* Local Rules  
4 W.D. Wash. 7(h)(3) ("No response to a motion for reconsideration shall be filed unless  
5 requested by the court.").

6 Dated this 10th day of May, 2022.

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JAMES L. ROBART  
United States District Judge